

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. Claim Status

Claims 1-7 and 9 are pending and were rejected. As to the merits, claims 1, 4-5, 7, and 9 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Japanese Patent No. JP 2000-069356 A to Noriyuki (“Noriyuki”). [4/22/08 Office Action, p. 4]. Claims 2 and 6 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Patent No. 7,030,911 B1 to Kubo (“Kubo”). [4/22/08 Office Action, p. 9]. Claim 3 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Noriyuki in view of U.S. Patent No. 6,654,062 B1 to Numata, et al. (“Numata”). [4/22/08 Office Action, p. 12].

By this paper, claims 1-7 are amended. Claim 1 is amended to delete the recitation of a “setting state determination device” and to incorporate elements pertaining to a “first exposure level calculation device” which calculates a “first exposure level” and a “second exposure level calculation device which calculates a second exposure level.” Claim 1 is also amended to improve clarity, correct jargon, and to reflect the inclusion of first and second exposure level calculation devices. Claim 1 is further amended to recite, *inter alia*, that the determination device “determines whether or not to correct the exposure error ... even if the image sensing apparatus is set to an auto exposure control mode.” Similar and conforming amendments are made to independent claim 7. Dependent claims 2-6 are also amended to address jargon, correct for antecedent basis, and to conform to the language of amended claim 1. Support for the amendments to claims 1-7 may be found throughout the application as originally filed including, for example, Figs. 1-3 and accompanying descriptive text.

No new matter will be introduced into this application by entry of these amendments.
Entry is respectfully requested.

B. Claims 1, 4-5, 7, and 9 are Not Anticipated by Noriyuki

Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 1, 4-5, 7, and 9. As set forth in detail below, Noriyuki does not teach, disclose, or suggest each and every element of these claims. In particular, Noriyuki fails to disclose a determination device which determines whether to correct the exposure error even if the image sensing apparatus is set to an auto exposure control mode. Accordingly, the anticipation rejection should be withdrawn.

Applicant's claim 1, as amended, recites:

1. An image sensing apparatus comprising:

a first exposure level calculation device which performs photometry for image sensing to calculate a first exposure level upon an image sensing preparation instruction by an image sensing preparation instruction member;

second exposure level calculation device which calculates a second exposure level of an image signal output after image sensing;

an exposure error calculation device which calculates an exposure error between the first exposure level calculated by said first exposure level calculation device and the second exposure level calculated by said second exposure level calculation device;

a determination device which determines whether or not to correct the exposure error on the basis of at least one of a setting state of the image sensing apparatus in image sensing, an operation state of the image sensing apparatus, and an object brightness state in image sensing, even if the image sensing apparatus is set to an auto exposure control mode; and

an exposure error correction device which performs a correction operation of the exposure error by using the exposure error calculated by said exposure error calculation device, when it is determined by said determination device to correct the exposure error.

As noted in Applicant's January 22, 2008 reply, Noriyuki is directed to an image pick-up device which carries out photoelectric conversion of an image signal. [Noriyuki, ¶0001]. The Office Action repeats its contention that Noriyuki's control section (component 20 in Fig. 5) serves in the same capacity as Applicant's determination device by determining "whether or not to correct the exposure error on the basis of at least one of a setting state ..., an operation state ..., and an object brightness state" as recited in Applicant's claim 1. [4/22/08 Office Action, p. 5-6]. The Office Action further contents that Noriyuki meets the elements as claimed since Noriyuki performs exposure correction "based upon the setting state of image sensing apparatus (i.e., automatic or manual) mode not based upon whether there is an actual exposure error." [4/22/08 Office Action, p. 3, point 7].

Applicant's image sensing apparatus, however, determines whether to perform exposure correction "even if the image sensing apparatus is set to an auto exposure control mode" as recited in amended claim 1. Thus, there may exist conditions wherein Applicant's image sensing apparatus does *not* correct the exposure error even if it is set in automatic exposure control mode. This determination is made based upon a setting state, an operation state, and an object brightness state during image sensing. Noriyuki, on the other hand, *always* performs exposure correction during automatic exposure operation. Applicant respectfully asserts that since Noriyuki does not teach a determination device which may refrain from correcting the exposure error during automatic operation, claim 1 is not anticipated by Noriyuki.

Accordingly, Noriyuki fails to teach, disclose, or suggest a "determination device which determines whether or not to correct the exposure error on the basis of at least one of a setting state ..., an operation state ..., and an object brightness state in image sensing, even if the image sensing apparatus is set to an auto exposure control mode" as recited in Applicant's amended

claim 1. Applicant submits claim 1 is patentably distinct from Noriyuki for at least this reason. Claim 1 is directed to an image sensing apparatus whereas independent claim 7 discloses an image sensing method analogous to claim 1 and, as such, claim 7 is also asserted to be patentably distinct for at least similar reasons. Since claims 4-5 and 9 depend either directly or indirectly from independent claims 1 and 7, respectively, they are all allowable for at least the same additional independent reasons as set forth for claim 1. Consequently, the Section 102(b) rejection of claims 1, 4-5, 7, and 9 should be withdrawn.

C. Claims 2-3 and 6 are Patentable over Noriyuki in view of the Cited References

Applicant respectfully traverses the rejection of claims 2-3 and 6 under 35 U.S.C. § 103(a) as allegedly being unpatentable for obviousness over Noriyuki in view of Kubo or Numata. For at least similar reasons as stated above and for the secondary references failing to overcome the deficiencies of the primary reference, claims 2-3 and 6 are asserted to be patentably distinct. Accordingly, Applicant respectfully traverses the Section 103 rejection of claims 2-3 and 6 over Noriyuki in view of Kubo or Numata. Applicants respectfully submit that all of the pending claims are now allowable for the above reasons and early, favorable action in that regard is requested.

Applicant has chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Finally, Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claims from which they depend are in condition for allowance as set forth above. Accordingly, the dependent claims are also in

condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

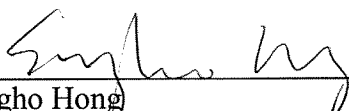
For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is earnestly solicited. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-5172.

Respectfully submitted,
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Dated: July 16, 2008

By: _____


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